

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LANCE DELK,

Petitioner,

v.

SHERIFF RICHARD SCHMIDT,

Respondent.

Case No. 18-CV-1948-JPS

ORDER

Petitioner filed this action on December 10, 2018 pursuant to 28 U.S.C. § 2241. (Docket #1). He alleges that his right to a speedy trial has been violated in an ongoing criminal proceeding in Milwaukee County Circuit Court. *Id.* Petitioner also complains that his detention is unlawful because a certain form was not signed by a judge. *Id.* On January 4, 2019, Magistrate Judge William E. Duffin screened the petition. (Docket #7). He recommended that the petition be denied because Petitioner has plainly failed to exhaust his state court remedies, which is required before a federal court can hear his habeas claims. *Id.*

On January 17, 2019, Petitioner filed a motion asking that he be permitted to withdraw his petition. (Docket #9). The Court will treat the motion as a notice of voluntary dismissal. Fed. R. Civ. P. 41(a)(1)(A)(i). Petitioner's motion does not take issue with Magistrate Duffin's analysis or recommendation. (Docket #9). Nevertheless, because the voluntary dismissal Plaintiff seeks would be without prejudice, just like Magistrate Duffin's recommended dismissal for failure to exhaust state court remedies, the Court will grant Petitioner's request to dismiss this action.

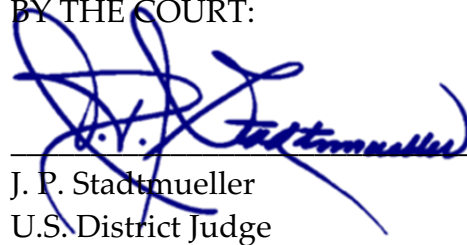
Accordingly,

IT IS ORDERED that Petitioner's motion for voluntary dismissal (Docket #9) be and the same is hereby **GRANTED**; and

IT IS FURTHER ORDERED that this action be and the same is hereby **DISMISSED without prejudice**.

Dated at Milwaukee, Wisconsin, this 31st day of January, 2019.

BY THE COURT:



J. P. Stadtmueller
U.S. District Judge